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## BOOK REVIEWS

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THE COMMERCE CLAUSE OF THE FEDERAL CONSTITUTION. By Frederick H. Cooke. New York: Baker, Voorhees & Co. 1908. Pp. xcii, 302.

"Commerce consists in transportation (not necessarily all transportation but certainly) including transportation of persons, tangible property, and (at least under certain conditions) of intelligence." With this definition of his subject Mr. Cooke has presented a new work on The Commerce Clause wherein he seeks to set aside as based on "inadequate comprehension of unifying principles" certain well developed lines of decision of the United States Supreme Court. The author's judgment is that the makers of the Constitution intended that the authority given to Congress by the commerce clause should be a merely concurrent power. Admitting, however, that the prevailing opinion is to the contrary, he contends for the rule that "in no case can commerce within the scope of the Commerce Clause be regulated under authority of a state." As a final deduction he advocates the distinction (which has not been adopted by the Supreme Court) that "it is beyond the power of a state to regulate the conduct and liability of those engaged in transportation within the scope of the Commerce Clause solely for the benefit of such class."

With these general theories in mind the author proceeds to an extensive review of the Supreme Court decisions. His style is not always lucid or compact, but the earnestness with which he advocates the adoption of his views results in the presentation of an interesting discussion of many noted cases. To endeavor to controvert his conclusions in this brief sketch is of course out of the question. If a reader desires to obtain an adequate comprehension of Mr. Cooke's treatment on various important issues he may refer to his discussion (page 110) of the doctrine that in any case the power of Congress to regulate commerce is, in the absence of the exercise thereof, exclusive of exercise of the power of regulation of such commerce under authority of a state; or to his treatment of the power of a state to interfere with foreign corporations to engage in commerce within its boundaries; or to his condemnation (see page 27) of the "anomalous, and it seems to us not improper to say, the absurd 'original package' doctrine."

*R. D. J.*